

Reader's Guide to the 1997 Employee Concerns Activities Report

This is the second annual report of the Department of Energy (DOE) Office of Employee Concerns. This report is intended to provide a broad overview of DOE's employee concerns program activities and the progress made in carrying out the goals of the Headquarters Office of Employee Concerns and the field employee concerns programs during 1997. This year's report includes data regarding the level to which concerns were substantiated and comparisons between the ages of open concerns at the end of calendar years 1996 and 1997.

Section I offers an overview of the DOE employee concerns program activities including the program goals and scope, headquarters and field elements of the program, the development of a DOE employee concerns tracking system, and future actions. Section II provides the summary of data collected. Section III describes future actions planned by the Headquarters Office of Employee Concerns. Appendix A lists the DOE employee concerns contacts; Appendix B lists the DOE Operations and field offices and the facilities under their jurisdiction.

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"Management must...be committed to a work environment that allows free and open expression of safety concerns, and where workers fear no reprisals or retaliation."

Secretary of Energy Federico Peña

Section I. OVERVIEW

-- Introduction

In his Secretarial Policy Statement on Environment, Safety and Health, Secretary of Energy Federico Peña renewed his commitment to ensure that DOE and contractor employees feel free to express their concerns without fear of reprisal. The Secretary has reiterated the policy of the Department that employees have the right and responsibility to report concerns relating to the environment, safety, health, security, or management of DOE operations. They also have the right to receive a timely investigation and resolution of their concerns, and protection from reprisal or intimidation as a result of reporting the concerns.

Secretary Peña took several actions during 1997 demonstrating that Department expects management officials to encourage employees to be conscious of the need to maintain safe and healthful working conditions, and to report problems. These included his actions with respect to the operations of the Brookhaven facility and his issuance of regulations designed to streamline the Department's whistleblower protection program for contractor employees.

One of the primary missions of the Headquarters Office of Employee Concerns (OEC) is to fulfill the Secretary's commitment to creating an environment where employees are free to raise concerns without the fear of reprisal or retaliation. This is accomplished by providing the necessary leadership, policy guidance, and assistance to operations and field office employee concerns programs (ECP) throughout DOE. The employee concerns program has continued to operate in a manner consistent with two basic tenets: 1) it is available to employees seeking confidentiality and 2) it operates to complement, not replace, existing avenues for addressing concerns. The Department must assure that employee concerns are addressed in a full, fair, and timely manner, while involving, to the maximum extent possible, management and the employees in the resolution process.

-- Employee Concerns Program Activities

The Headquarters Office of Employee Concerns. In its first full year of operation, OEC worked closely with the operations and field office ECP managers to develop a consistent approach to the receipt and processing of employee concerns. OEC also coordinated with the Office of Environment, Safety and Health, the Office of the Inspector General, the Office of General Counsel, and various headquarters and operations and field offices to coordinate efforts to address and resolve concerns during 1997. OEC also continues to encourage employees to seek resolution of their concerns with their first-line supervisors, or to utilize established concern or complaint resolution systems whenever possible.

In 1997, OEC conducted two conferences with the operations and field ECP managers. Each ECP manager presented an overview of their respective ECP program, its successes, challenges, and concluded by offering recommendations for program improvement.

At these conferences, training was provided on best practices of employee concerns programs and steps that can be taken to create an environment in which employees feel free to raise concerns without fear of reprisal. OEC arranged for guest speakers, including a representative from the Government Accountability Project, the Office of Special Counsel, the Department of Labor's Office of Administrative Law Judges, an attorney who represents whistleblowers and who is a member of the Hanford Joint Council, a member of DOE's Office of Field Management who gave a presentation on the Facility Representative Program, and a representative of the Office of Environment, Safety and Health who discussed the DOE Federal Employees Occupational Safety program.

The Office of Employee Concerns has also worked with management, ECP managers, contractors, employees, and employee representatives in attempts to resolve several concerns, both at the Headquarters and field levels. Several long-term concerns, some dating back to the early 1990's, were brought to closure. One whistleblower complaint filed under the Department's Contractor Employee Protection Program was settled through co-mediation by an OEC staff member. A number of other concerns, involving payroll, security, interpersonal disputes, employment and safety concerns were also resolved through informal discussions with employees and management officials.

In September, 1997, the Intergovernmental Personnel Act assignment of the individual who had served as the Ombudsperson concluded. OEC then took on the responsibility of the position of Ombudsman, and this function will remain in OEC in the future. Several employees were assisted in the resolution of issues through this process, which permits less formality than the employee concerns program, and where record-keeping is not necessary given the nature of the process.

OEC was responsible for drafting a Notice of Proposed Rulemaking (NPR) aimed at streamlining the Department's whistleblower protection program found at 10 CFR Part 708 (Part 708). Working with representatives from the Office of the Under Secretary, the Office of General Counsel, the Office of Inspector General, the Office of Hearings and Appeals, and operations and field ECP managers, the NPR was issued by the Secretary as part of his December 1997 Openness Conference.

-- Field Employee Concerns Activities

A number of successes were achieved by operations and field ECP's 1997. As indicated in the data below, the ECP statistics show that almost 90 concerns were fully or partially substantiated. As in 1996, most concerns were resolved through the action of the ECP offices, often working in conjunction with appropriate DOE program offices at the sites. The ECP's continued to have

success resolving whistleblower complaints through the use of mediation and other forms of Alternative Dispute Resolution mechanisms.

At one of the employee concerns conferences conducted by OEC in 1997, ECP managers shared examples of successes they had in resolving employee concerns. The following examples reflect many of the key elements of a successful employee concerns effort: the employees first worked within an existing system; good faith efforts were made to resolve the concern; the DOE employee concerns programs were available where concerns had not been fully resolved; and DOE employee concerns managers, working with DOE and contractor personnel, took extra steps to identify and resolve concerns and ensure health and safety issues were fully reviewed.

1. A contractor employee went to the contractor's ECP to complain about secondhand smoke (actually the smell of cigarette smoke) coming from a specific Smoking Break Room into the ramp area outside of the break room. The contractor contacted their Industrial Hygiene Department, which took the following actions: Installed two 1000 cubic feet per minute "Smoke Eaters" in the ceiling of the break room; added two smaller portable filters to the room; placed three desktop filters in the offices adjoining the Break Room; hosted a meeting with employees that use or are affected by the smoke from the break room (all involved wanted to find a way to accommodate both smokers and non-smokers); modified the return air system above the area in order to physically separate the return air from the smoking break room from the HVAC system that supplies fresh air to the Break Room and adjoining areas; and increased the preventive maintenance cycle for cleaning the Smoke Eaters from monthly to weekly.

All of these efforts improved, but did not solve, the problem. The employee came to the DOE ECP manager and stated that although he appreciated the contractor's efforts, he was still not satisfied with the situation. The DOE ECP manager met with the contractor's ECP Manager, the contractor Industrial Hygiene Department, a member of the DOE Safety and Health Staff and the dissatisfied employee to discuss and further investigate the problem. In a joint effort, DOE and the contractor continued to look for ways to solve the problem. It was later determined that there was no flow in the exhaust air duct from the break room, indicating a possible blockage somewhere in the air ducts. The investigation located four completely clogged charcoal filters in the exhaust air plenum. No one knew of the existence of these filters since they did not show up in any blueprints. Two of the filters were removed and the room immediately went to negative pressure as flow was restored to the exhaust air duct. The smoky smell in the ramp area outside of the Break Room was almost immediately eliminated as air was now drawn into the exhaust air duct and routed outside the building. The two remaining filters were scheduled to be removed. In a final meeting with the employee, he expressed his satisfaction and also the fact that he was very pleased and impressed that the contractor and DOE worked together to solve his problem. The DOE and contractor ECPs provide mutual assistance and support in order to successfully resolve employee concerns.

2. *An employee alleged that he had been identified for separation through reduction in force (RIF) in retaliation for his having identified OSHA and DOE safety violations. An investigation indicated that the reduction in force was budget driven, but stated that there were perceptions of retaliation and the possibility of creating a chilled environment if the concerned employee was RIFed. The DOE Employee Concerns Manager concluded there was sufficient evidence that the employee's safety concerns were a factor in the selection of the employee for RIF. The Employee Concerns Manager arranged meetings with the employee and the vice president of the company and was able to assist the parties in developing a "win-win" resolution. The employee contacted a DOE official to express his appreciation for DOE's assistance in making the system work.*

3. *A Type-B Investigation Team was established to review the circumstances surrounding the possible intake of radioactive material by a crane operator. The Investigative Team found that it needed information from employees who had knowledge of activities at the particular site over the previous several years. The Employee Concerns office was asked to help, and it did so by providing briefings for employees at weekly safety meetings, describing how to report concerns. Following the meeting, the Employee Concerns office and the Investigative Team received substantial information needed for a thorough investigation, and employees also used the employee concerns program to raise additional concerns.*

-- The National Academy of Public Administration "Old" Whistleblower Case Project

During 1997, the focuses of the pilot program being administered by the National Academy of Public Administration (NAPA) to determine how best to bring closure to the "old" (pre-April 1992 whistleblower cases) were (1) to design alternative methods for reviewing cases; (2) publicize the availability of the pilot program; and (3) allow individuals to submit their cases for consideration for review under the pilot project. The review of pre-April 1992 cases will be carried out by the NAPA under the direction of OEC. Based on communications it received from individuals, OEC was able to coordinate the efforts of NAPA and certain individuals who believed their cases might be appropriate for review under the pilot program.

- - Employee Concerns Program Tracking System

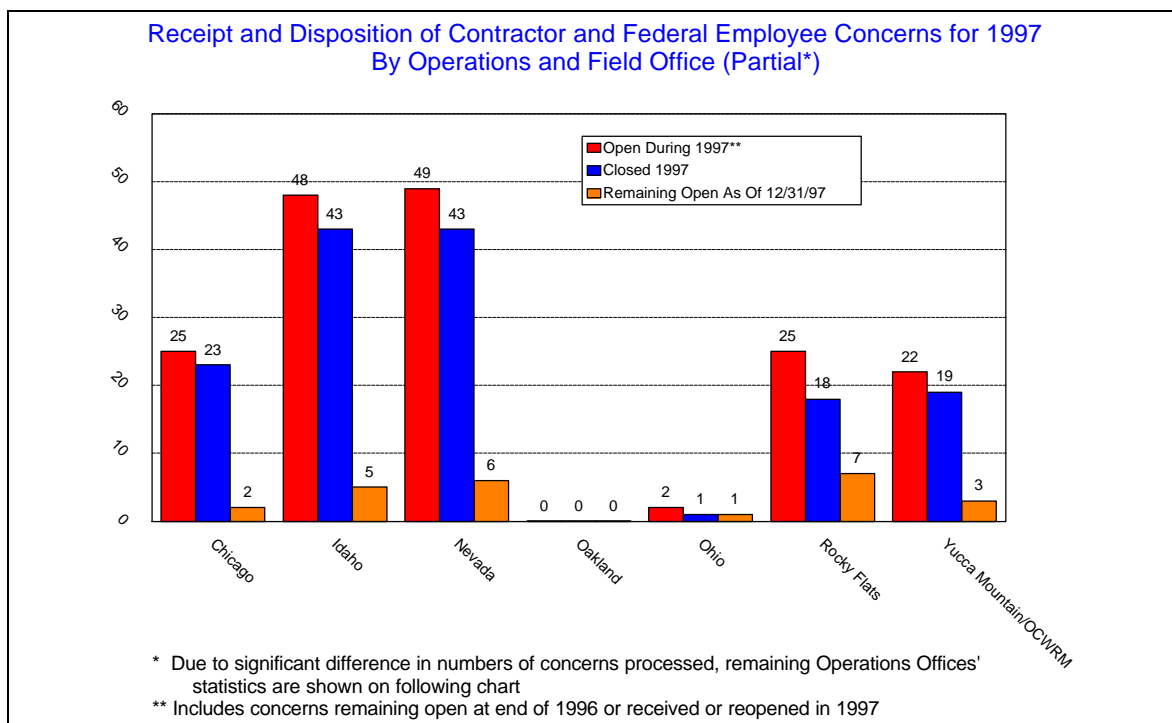
The collection of data for the current report was expedited through the use of the Employee Concerns Tracking System initiated this year by OEC. Rather than require all employee concerns program offices to use a single tracking program, OEC was able to arrange to collect necessary data from all of the offices by standardizing certain data fields, but permitting the offices to track their data consistent with the needs and particular software used by their offices. The compilation of compatible data, even though from different software programs, reflects the goal of OEC to meet overall Departmental data collection needs while allowing necessary flexibility at the operations and field office levels.

Section II. MAJOR TRENDS REFLECTED IN COLLECTED DATA

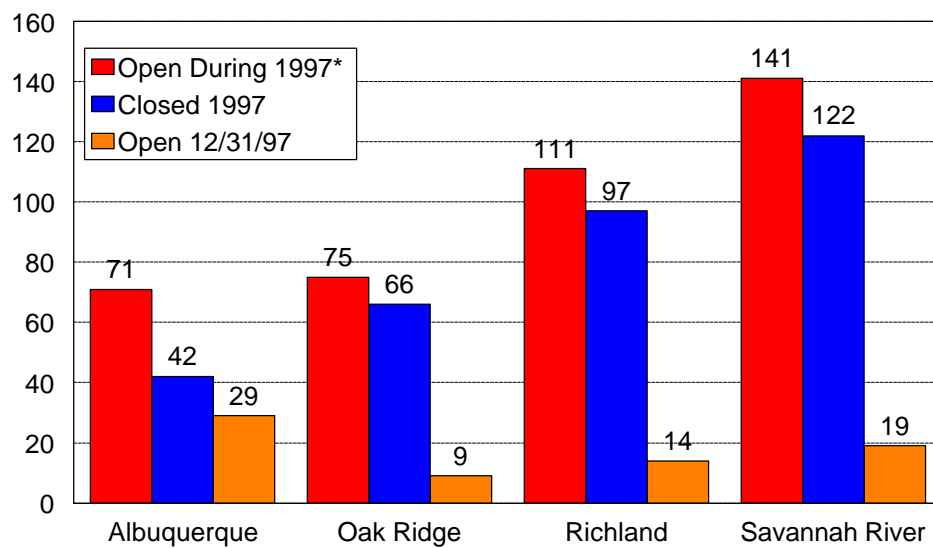
Receipt and Disposition. The data collected reflects concerns filed with the DOE operations and field ECP offices. It does not contain data relating to concerns, allegations, complaints, etc., filed directly by employees with appropriate offices such as the Office of Inspector General, civil rights offices, the Office of Environment, Safety and Health representatives, or through contractor employee concerns or grievance procedures.

The DOE ECP offices started 1997 with a total of 105 concerns opened in prior years. During 1997, those offices reported that a total of 457 new concerns were opened, and 7 previously closed concerns were reopened. This data reflecting the number of concerns raised by DOE contractor employees does not include employee concerns reported annually to contractor ECPs. The DOE ECP offices processed 474 of the concerns, leaving 95 open at the end of calendar year 1997.

The number of concerns opened by the DOE ECP offices in 1997 was about 80 fewer than were opened in 1996. Reductions in staffing levels account for some of the reduction, but a primary factor was the effectiveness of contractor dispute resolution systems. All of the DOE ECP managers reported that they routinely meet with contractor ECP representatives and coordinate efforts to resolve concerns at the lowest possible level. This trend reflects success in one of the primary goals of the employee concerns program - to improve the responsiveness of management to concerns raised by their employees. As the data shows, the Oakland ECP office is in the early stages of formalizing its program. It too worked closely with contractor/laboratory ECP personnel to maintain awareness of concerns raised by contractor and laboratory employees.



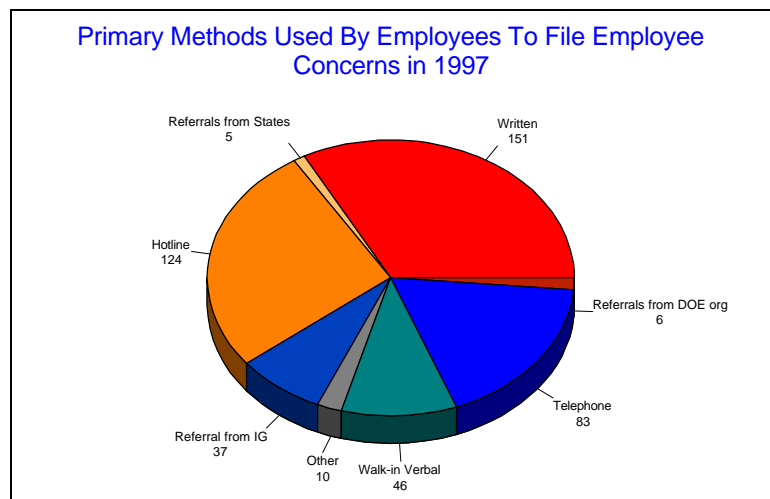
Receipt and Disposition Summary (Continued)
1997



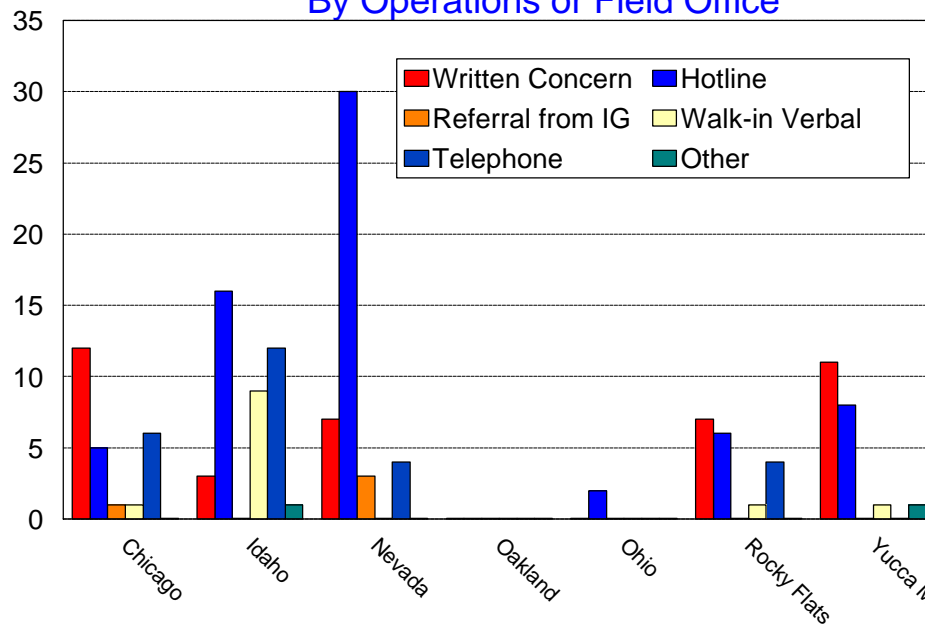
* Includes concerns remaining open at end of 1996 or received or reopened in 1997

Sources of Concerns. The means by which concerns were brought to the attention of employee concerns offices differed among the offices. Overall, the major methods by which concerns were submitted to the ECP offices were written submissions (153); hotline calls (124); referral from the Office of Inspector General (37); walk-ins (46); and telephone calls (83). The remaining concerns were referred from other DOE offices, Federal or state agencies, or miscellaneous other sources.

The two most widely used methods of raising concerns were through the submission of written concerns or the use of a hotline. Written concerns were the most prevalent methods used in Idaho, Rocky Flats, Richland and Oak Ridge, as compared to the preference for the hotline in Nevada and Yucca Mountain. Albuquerque and Savannah River are two of the offices that have been assigned responsibility for responding to concerns referred to operations and field offices by the Office of Inspector General. These two offices accounted for 31 of the 37 concerns referred to DOE ECP offices by the Office of Inspector General. Referrals from the Office of Inspector General were also processed by Chicago, Nevada and Oak Ridge.

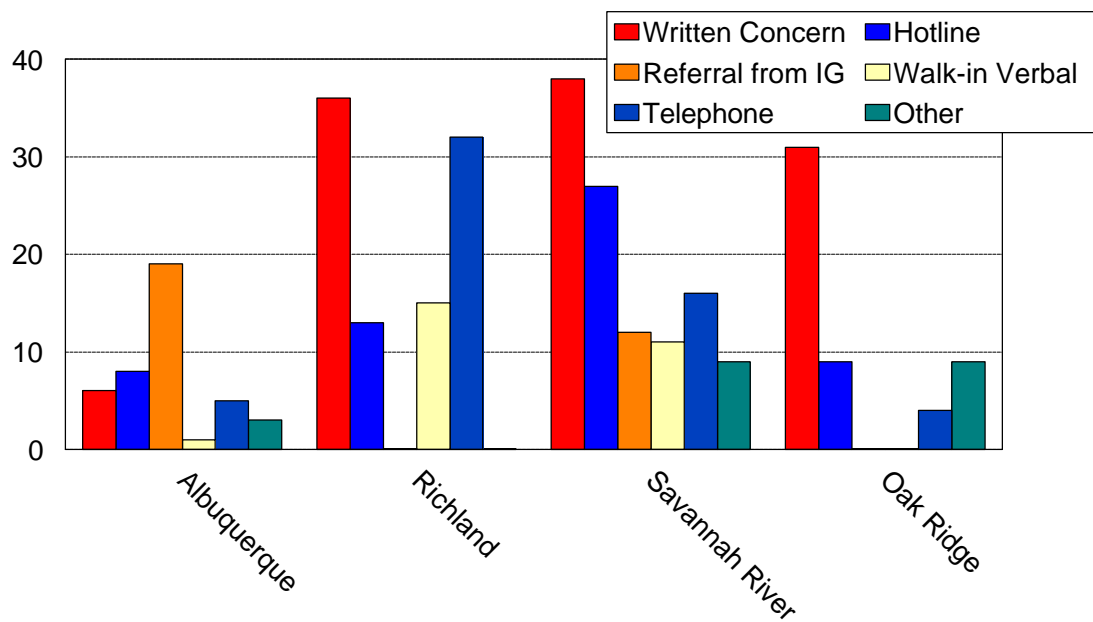


Primary Sources of Concerns Received in 1997 (Partial*) By Operations or Field Office



* Due to significant difference in numbers of concerns processed, remaining Operations Offices' statistics are shown on following chart

Primary Sources of Concerns Received in 1997
By Operations or Field Office (Continued)



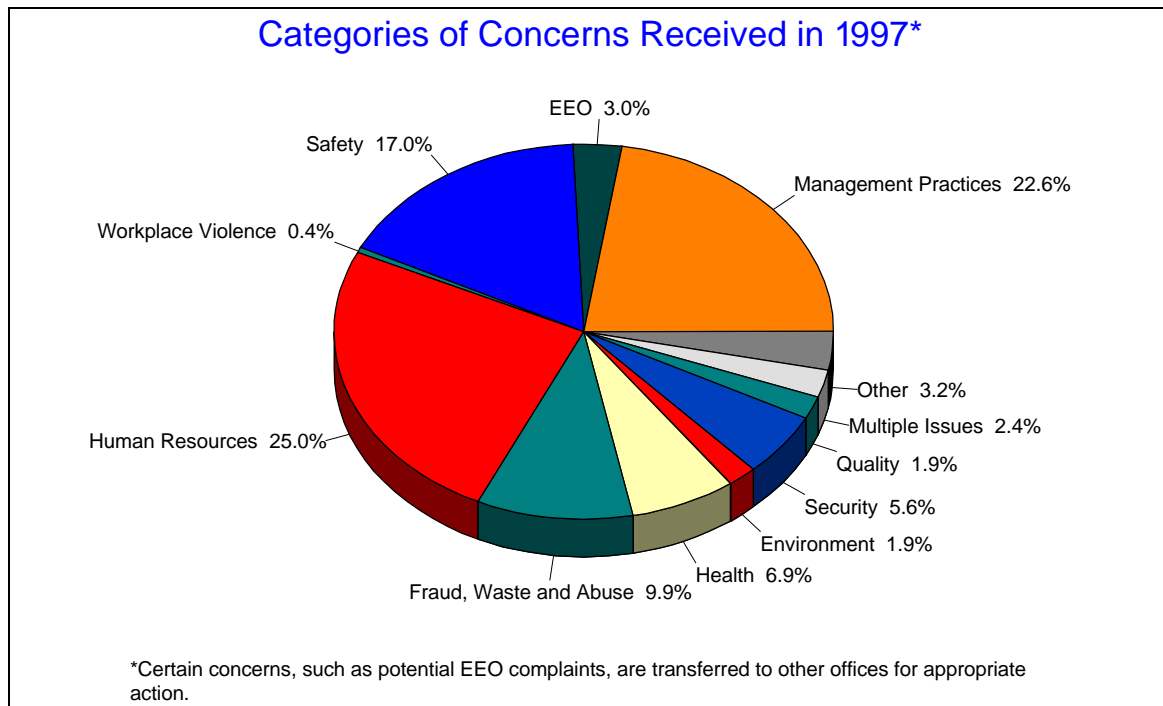
Subject Matter of Concerns. Four categories of concerns that accounted for 346 of the 457, or 70 percent, of the new concerns. They were: management/mismanagement (105); human resources (116); safety (79); and fraud, waste and abuse (46). The instructions for reporting employee concerns included the following examples of concerns for these four areas:

Management/mismanagement - re-engineering, policies and procedures, smoking, standard of conduct, reprisal and ethics.

Human Resources -union relations, employee assistance program, Merit Systems Protection Board cases, personal grievance, contractor relations, policies/procedures, staffing, hiring, termination, work force restructuring/downsizing, awards/appraisals, promotion, selection, position qualification overtime and training.

Safety - hoisting and rigging, training, protective equipment, "lock-n-tag," fire equipment, fire department, ambulance, fires and Price Anderson Amendment Act.

Fraud, Waste and Abuse - theft, gross inefficiency, abuse, authority/responsibility, destruction of Government property, misuse of Government vehicle and misrepresentation.

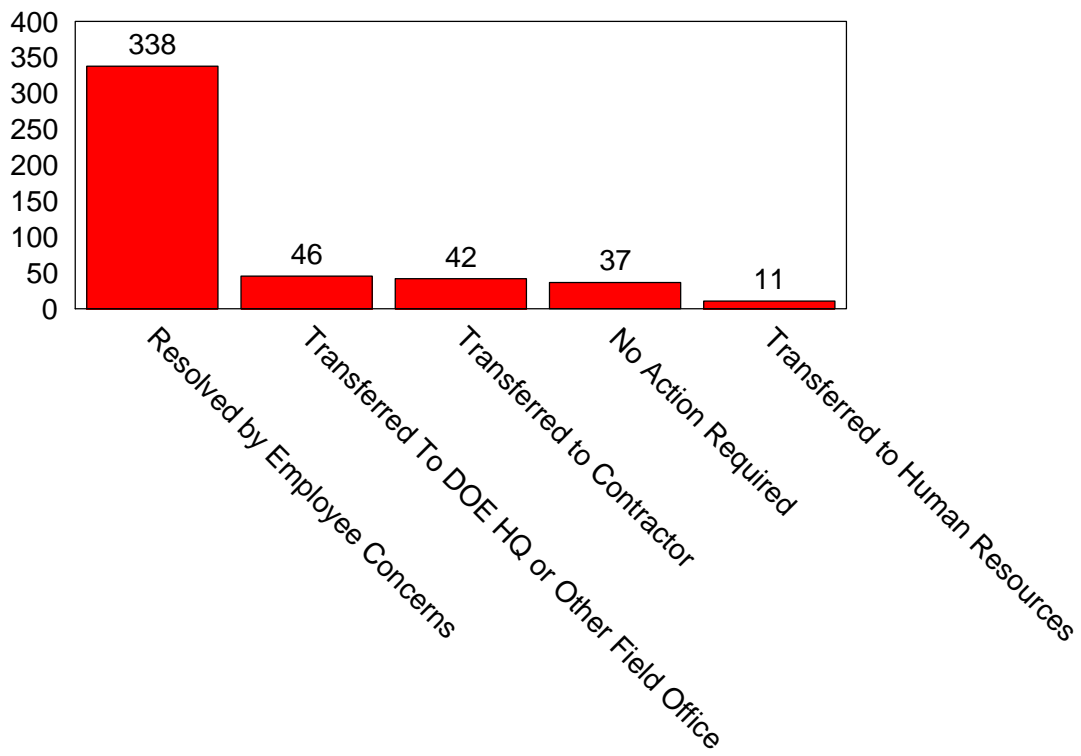


In 1997, concerns in the areas of management/mismanagement increased from 19.9 to 22.6 percent; human resources concerns rose from percent 17.9 percent to 25.3 percent. These increases may have been the result of continued downsizing of the contractor work force at DOE sites.

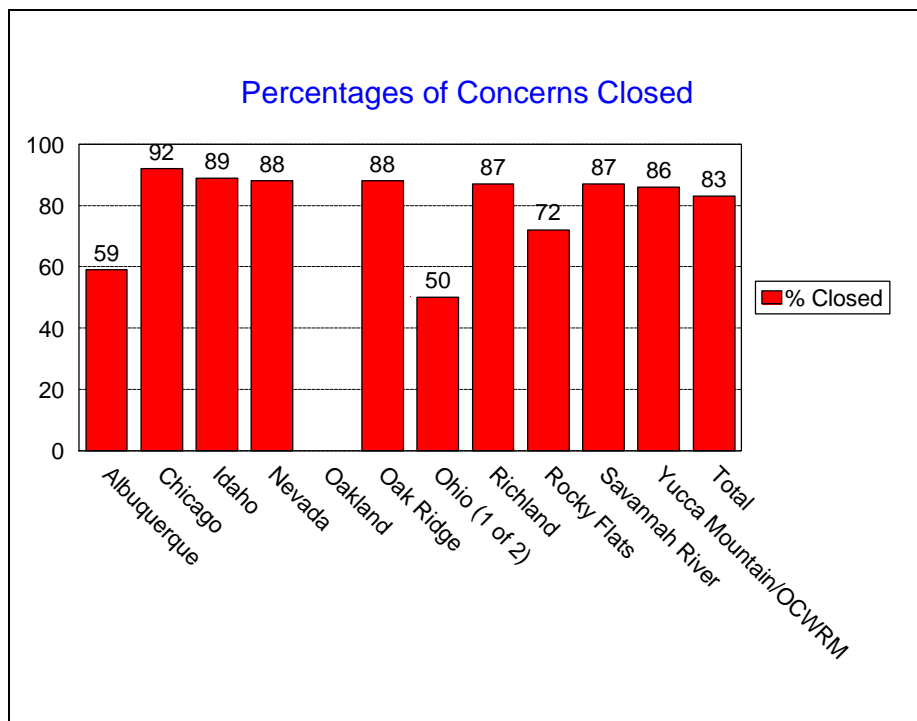
Closing Concerns. In 1997, OEC worked with the ECP managers to standardize the designation of the methods by which concerns were closed. Concerns closed by employee concerns offices include those processed solely by the ECP offices as well as those closed by the ECP offices after they had received evaluations of the concerns from offices to which they referred the concerns. Concerns are considered closed by transfer when the concern is sent to other offices or organizations that have primary responsibility for the subject matter of the concern. Statistics are shown that distinguish concerns transferred within DOE from those that were transferred to contractors. Transferred concerns generally require no further action by ECP offices, although DOE ECP offices request reports on actions taken where follow-up activities may be necessary.

As noted above, 338 of the concerns were resolved by the ECP offices, while 57 were transferred to other offices within DOE for resolution. Forty-two of the concerns were referred to contractors for resolution; 37 concerns required no action.

Methods By Which Concerns Were Closed In 1997

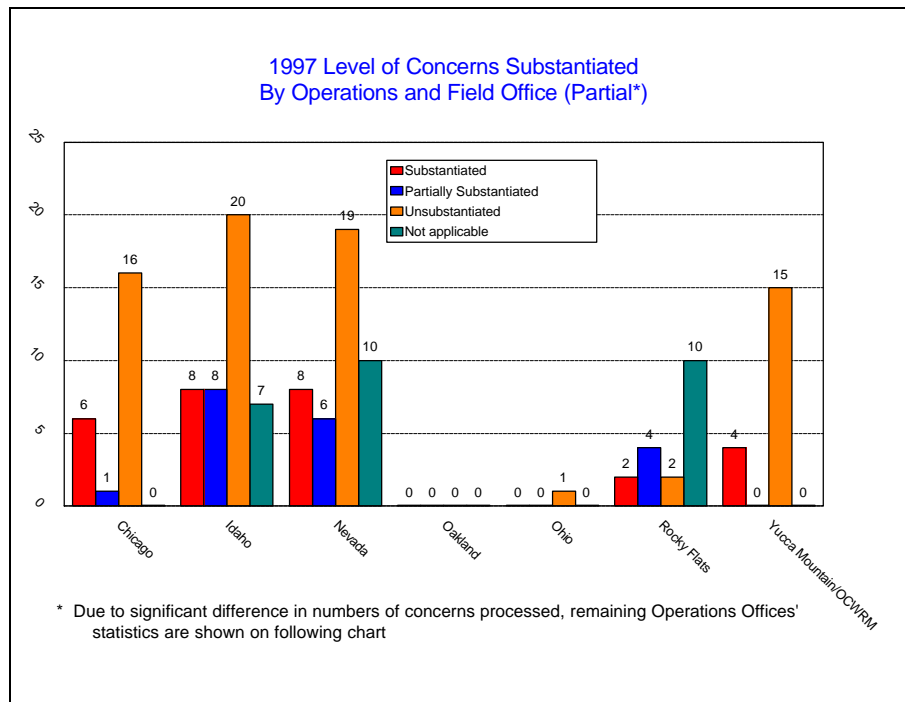


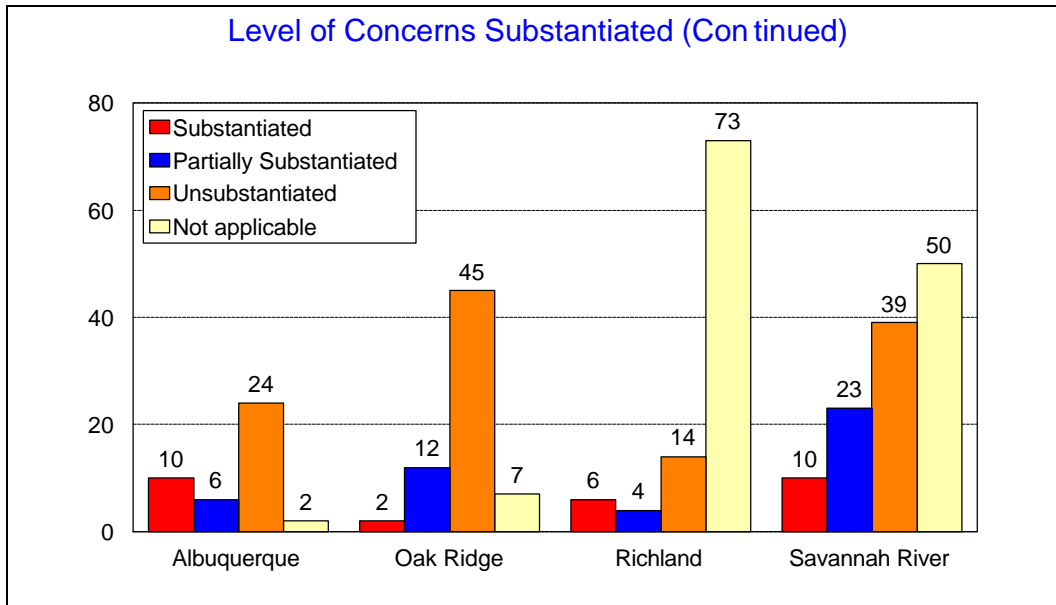
The percentage of concerns closed in 1997 rose to 83 percent as compared to 79 percent for 1996. Of the concerns subject to processing in 1997, 474 were closed.



Level of Substantiation of Concerns.

Data was collected in 1997 regarding the degree to which concerns submitted were substantiated. Four categories were available: substantiated; partially substantiated; unsubstantiated; or not applicable. The latter category primarily reflects concerns where the nature of the concerns was not subject to factual substantiation or the concerns were transferred to other offices and the outcomes not tracked by the ECP offices.

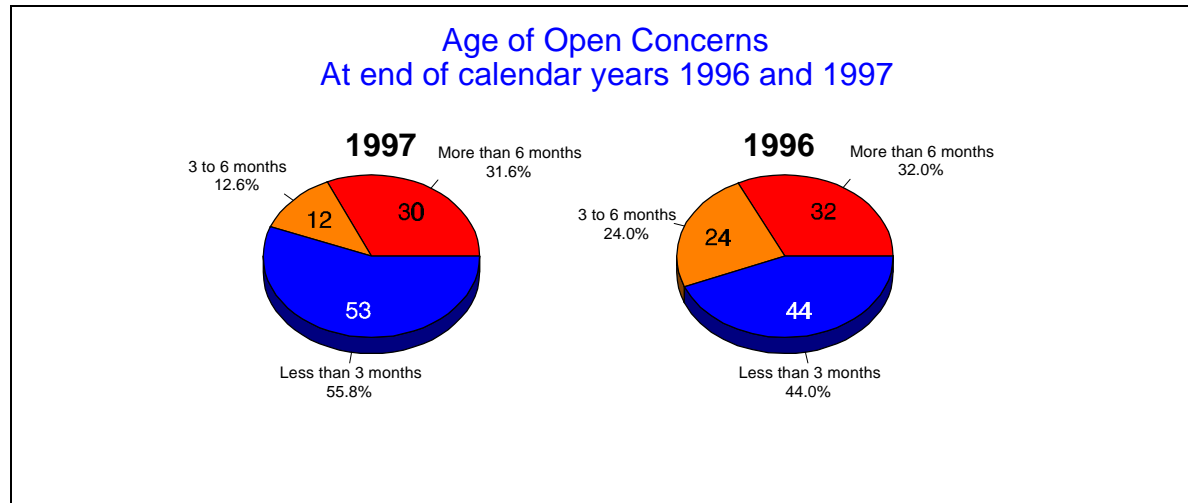




Age of Open Concerns. Data was again collected to reflect the age of concerns that remained open at the end of 1997. Of the concerns that remained open at the end of 1996 throughout the DOE employee concerns complex, 79 (45 percent) had been open for under 3 months; 42 (24 percent) for 3 to 6 months; and 56 (31 percent) for more than 6 months. Concerns that have been pending for more than 6 months will be identified, and steps taken to expeditiously resolve these concerns.

The figures show a very close relationship to concerns opened more than six months for 1997 as compared to 1996 (31.6 percent and 32 percent, respectively). Except for a very few concerns that have required additional investigation or discussion, the concerns that were more than 6 months old at the end of 1996 have been closed. The statistics for 1997 do not include

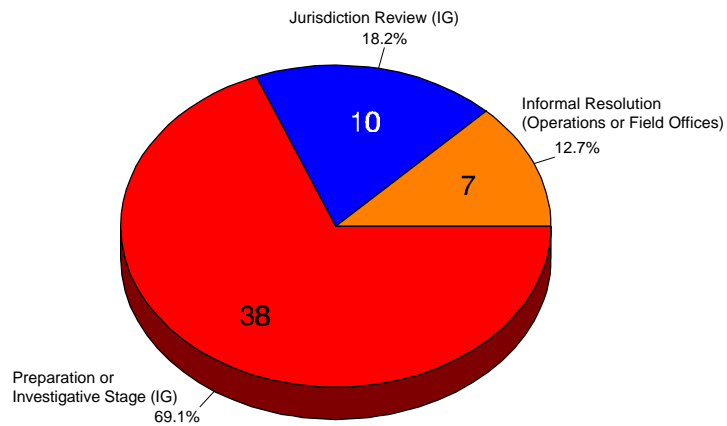
whistleblower complaints filed by contractor employees with DOE pursuant to the Department's Contractor Employee Protection Program found in Part 708 of title 10 of the Code of Federal Regulations (Part 708). The current status of open Part 708 cases are reflected below.



Status of Complaints Filed Under 10 C.F.R. Part 708. At the beginning of 1997, 40 complaints filed under Part 708 with operations or field offices remained open, and an additional 29 were filed during 1997. A total of 44 complaints were closed by field offices, either through informal resolution, transfer to the Office of Inspector General for investigations following unsuccessful attempts at informal resolution at the field level, or as a result of decisions issued by the Office of Inspector General (which absorbed the functions formerly performed by the Office of Contractor Employee Protection).

Of the Part 708 cases open at the end of 1997, seven complaints were at the field level pending attempts at informal resolution; 20 were pending with the Office of the Inspector General for action relating to investigation; and 10 were under jurisdictional review by the Office of Inspector General.

Contractor Employee Protection Program
Status of Part 708 Whistleblower Complaints Filed
With Field Offices*



* As of 12/31/97

Section III. FUTURE ACTIONS

1. Work with the Office of Environment, Safety and Health, and the Office of Human Resources and Administration to identify those aspects of DOE Order 5480.29, Employee Concerns Management System, that relate specifically to environment, safety and health issues. DOE Order 5480.29, issued in 1993 by the then Office of Nuclear Energy, will either be amended or replaced by separate employee concerns program guidance to carry out the goal of the employee concerns program to complement existing employee reporting procedures without supplanting existing requirements in DOE Orders, rules, and regulations. This guidance will reflect the expanded roles of employee concerns programs beyond environmental, safety and health issues.
2. Develop and administer a survey to determine customer knowledge about and satisfaction with DOE ECPs.
3. Finalize the implementation of the DOE Employee Concerns Tracking System.
4. Develop and implement guidelines as to when employee concerns should be referred or transferred for evaluation and appropriate action to the employer of the concerned employee.
5. Take steps necessary to reconfigure the Office of Employee Concerns to reflect its responsibilities in the areas of employee concerns, ombudsman functions, and possibly in the implementation of the Department's Contractor Employee Protection Program (10 C.F.R. Part 708).
6. Publicize on a national level the scope of the employee concerns program, the availability of the ombudsman function, and the DOE employee concerns program offices at the operations and field offices.
7. Create an employee concerns Home Page to publicize the availability of the program and successes stemming from employees having raised concerns.
8. Making available, through a Headquarters OEC Home Page, training course materials for supervisory and management personnel entitled "How to create an environment in which employees feel free to raise concerns without fear of reprisal or retaliation."
9. Bring closure to the "old" whistleblower concerns being reviewed pursuant to the pilot program being administered by the National Academy of Public Administration.
10. Finalize modifications to the Department's Contractor Employee Protection Program (10 C.F.R. Part 708) based on comments received from the public and internal DOE coordination in response to the January 5, 1998, publication of a Notice of Proposed Rulemaking.
11. Identify concerns that have been pending for more than six months and determine the reasons for the extended period of time the concerns have remained open; assist ECPs with the expeditious resolution of such concerns to the extent possible.

12. Publicize the availability of training in the area of the investigation of administrative matters, including concerns related to health and safety, such as that provided by the Government Training Institute.

13. Continue to use various Alternative Dispute Resolution mechanisms, including Concerns Review Panels, Difference of Professional Opinion (DPO) processes, mediation and facilitation.

APPENDIX A

<u>Name</u>	<u>Organization</u>	<u>Telephone</u>	<u>FAX#</u>
<u>Employee Concerns Program Contacts</u>			
<u>Headquarters</u>			
William A. Lewis, Jr.	HQ-OEC	(202) 586-4034	(202) 586-4924
Richard S. Fein	HQ-OEC	(202) 586-4043	(202) 586-4924
Kathy Richardson	HQ-OEC	(423) 576-1072	(423) 241-0138
<u>Field</u>			
Don Richer	Albuquerque	(505) 845-5374	(505) 845-4324
Gary Locklin	Albuquerque	(505) 845-4083	(505) 845-4020
Lorraine Cano	Albuquerque	(505) 845-4411	(505) 845 4020
Brenda Finley	Amarillo	(806) 477-3190	(806) 477-5894
Lucy Borjas	Chicago	(630) 252-2327	(630) 252-2919
Rick Parks	Idaho	(208) 526-1818	(208) 526-5964
Sara Rhodes	Nevada	(702) 295-7843	(702) 295-0134
Rufus Smith	Oak Ridge	(423) 576-4988	(423) 564-1939
Jim Dorn	Oakland	(510) 637-1808	(510) 637-2160
Frances Ellingberg	Oakland	(510) 637-1774	(510) 637-2160
Nancy Voltura	Yucca Mountain (OCRWM)	(702) 295-2652	(702) 295-2755
Robert Folker	Ohio	(937) 865-5133	(937) 865-3426
James Jefferson	Ohio	(937) 865-3974	(937) 865-4728
Sandra Cramer	Ohio	(937) 865-4389	(937) 865-4728
Jennifer Sands	Richland	(509) 376-1610	(509) 372-0998
Julie Goeckner	Richland	(509) 376-1198	(509) 372-0998
Joe Weinand	Rocky Flats	(303) 966-2025	(303) 966-2848
Marcy Nicks	Rocky Flats	(303) 966-2719	(303) 966-3679
Dino Buen	Rocky Flats	(303) 966-2320	(303) 966-2212
Marcia Delmore	Savannah River	(803) 725-9578	(803) 725-5949
Diane Saylor	Savannah River	(803) 725-3745	(803) 725-5949
Office of Dispute Resolution			
Phyllis Hanfling	GC-12	(202) 586-6972	(202) 586-7479

APPENDIX B

Operations and Field Office Facilities

Operations Office Facilities

Albuquerque	Grand Junction Project Office, Grand Junction, CO Inhalation Toxicology Research Int., Albuquerque, NM Kansas City Plant, Kansas City, MO Los Alamos National Laboratory, Los Alamos, NM Pinellas Plant, Largo, FL Pantex Plant, Amarillo, TX Sandia National Laboratory, Albuquerque, NM Waste Isolation Pilot Project, Carlsbad, NM
Chicago	Ames Laboratory, Ames, IA Argonne National Laboratory-East, Argonne, IL Argonne National Laboratory-West, Idaho Falls, ID Brookhaven National Laboratory, Upton, NY Environmental Measurement Laboratory, New York, NY Fermi National Accelerator Laboratory, Batavia, NY New Brunswick Laboratory, Argonne, IL Princeton Plasma Physics Laboratory, Princeton, NJ
Idaho	Idaho Chemical Processing Plant, Idaho Falls, ID Idaho National Engineering Laboratory, Idaho Falls, ID INEL Research Center, Idaho Falls, ID Radioactive Waste Management Complex, Idaho Falls,
ID	SMC Project, Idaho Falls, ID Test Area North, Idaho Falls, ID Test Reactor Area, Idaho Falls, ID Waste Reduction Operations Complex, Idaho Falls, ID

Operations Office Facilities

Nevada	Amador Valley Operations, Livermore, CA Los Alamos Operations, Los Alamos, NM Nevada Test Site, Nye County, NV North Las Vegas Facilities, North Las Vegas, NV Remote Sensory Laboratory, Las Vegas, NV Washington Aerial Measurements, Andrews AFB, VA
Oak Ridge	K-25 Site, Oak ridge, TN Oak Ridge Institute of Science and Education, Oak Ridge, TN Oak Ridge National Laboratory, Oak Ridge, TN Paducah Gaseous Diffusion Plant, Paducah, KY Portsmouth Gaseous diffusion Plant, Piketon, OH Thomas Jefferson National Accelerator Facility, Newport News, VA Weldon Spring Site, St. Charles, MO Y-12 Plant, Oak Ridge, TN
Oakland	Energy Technology Engineering Center, Canoga Park, CA Ernest Orlando Lawrence Berkeley National Laboratory, Berkeley, CA Lawrence Livermore National Laboratory, Livermore, CA Stanford Linear Accelerator Center, Menlo Park, CA
Richland	Hanford Site, Richland, WA Pacific Northwest National Laboratory, Richland, WA

Field Office**Facilities**

Ohio

Ashtabula Environmental Management Project,
Ashtabula, OH
Columbus Environmental Management Project, Dublin,
OH
Fernald Environmental Management Project, Cincinnati,
OH
Miamisburg Environmental Management Project,
Miamisburg, OH
West Valley Demonstration Project, West Valley, NY

Rocky Flats

Rocky Flats Environmental Technology Site,
Rocky Flats, CO

Savannah River

Savannah River Site